

**FILED**  
FEB 26 2004  
SURFACE  
TRANSPORTATION BOARD

MIDDLE CREEK NATIONAL  
BATTLEFIELD FOUNDATION, INC.  
Post Office Box 326  
Prestonsburg, Kentucky 41653-0326



January 16, 2004

Mr. Vernon A. Williams, Secretary  
Surface Transportation Board  
1925 K St., NW, Rm 711  
Washington, DC 20423

**FEE RECEIVED**  
FEB 26 2004  
SURFACE  
TRANSPORTATION BOARD

210170

ENTERED  
Office of Proceedings

FEB 26 2004

Part of  
Public Record

Re: CSX Transportation - Abandonment - Floyd County, KY - Milepost 1.0 (West Prestonsburg) to Milepost 10.1 (David) Docket No. AB-55 (Sub-No. 645X)

Dear Mr. Williams:

This comment should be treated as protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the Middle Creek National Battlefield Foundation, Inc. which is a private public interest organization interested in conservation and recreation, which is hereinafter referred to as 'Commenter'.

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between Milepost 1.0 (West Prestonsburg) to Milepost 10.1 (David).

A. Public Use Condition

Commenter requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that: The Battlefield Foundation, Floyd County, the City of Prestonsburg and multiple other local and regional organizations have explored this section of rail as the "site" for a scenic railroad as part of the area's economic development efforts through tourism. A feasibility study funded by the Southern and Eastern Kentucky Tourism Development Association, for this project is presently being completed. If a scenic railroad is not feasible, the corridor would make an excellent recreational trail and conversion of the property to trail use is also in accordance with local plans. The corridor provides important wildlife habitat and greenspace and its preservation, as a recreational trail is consistent with that end. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because we have not had an opportunity to assemble or to review title information, complete a trail plan, or commence negotiations with the carrier.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, the Middle Creek National Battlefield Foundation, Inc. is willing to assume full responsibility for management of, or any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by CSX Transportation, Inc.

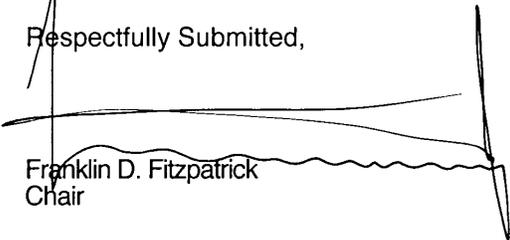
The property, known as the Middle Creek CSX rail line extends from railroad Milepost 1.0 (West Prestonsburg) to Milepost 10.1 (David) a distance of 9.1 miles in Floyd County, Kentucky. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-55 (Sub-No. 645X).

A map depicting the right-of-way is attached.

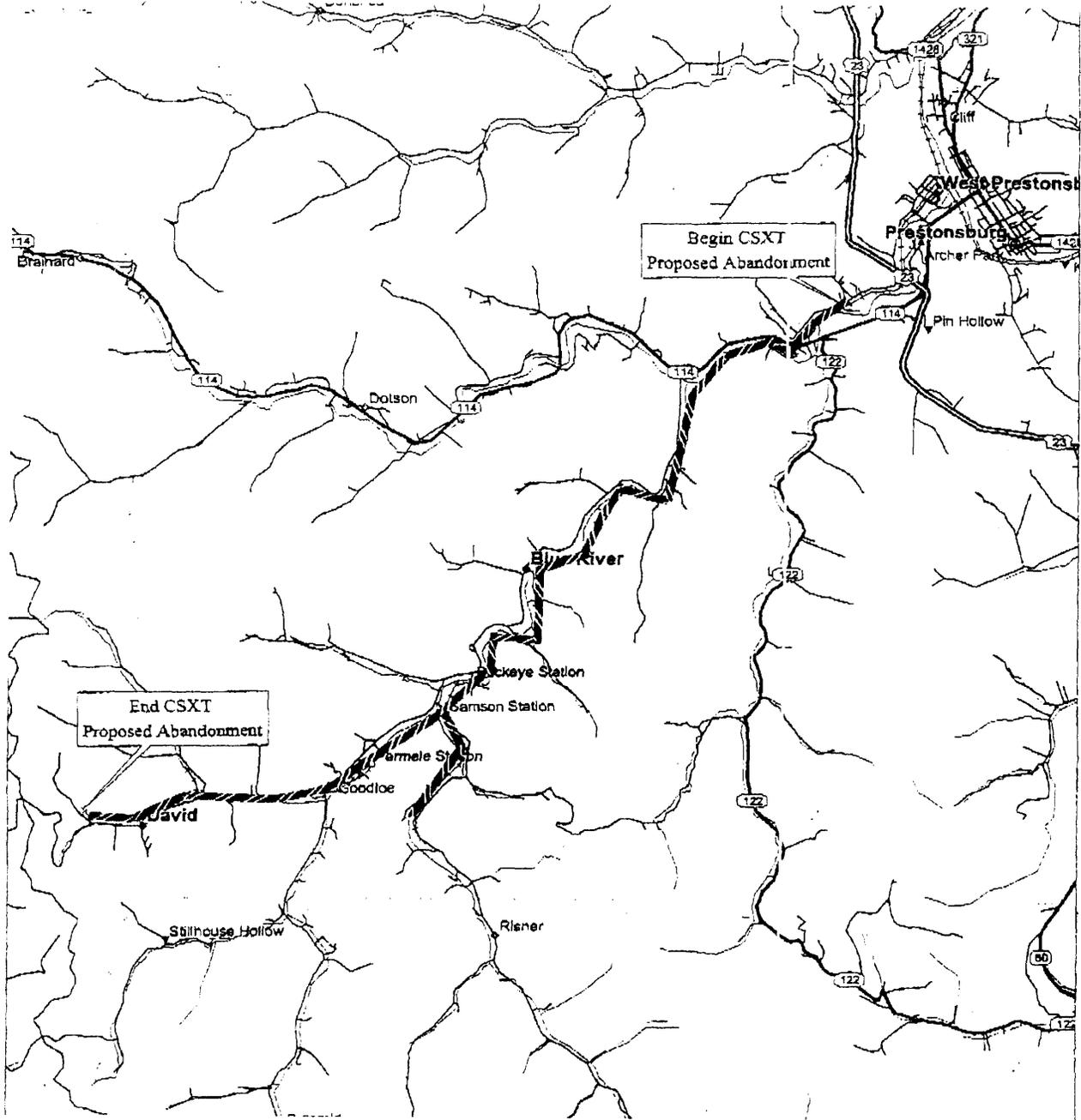
The Middle Creek National Battlefield Foundation, Inc. acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon CSX Transportation Inc., 500 Water Street J150, Jacksonville, Florida 32202 by U.S. Mail, postage prepaid, first class, this 16 day of January 2004.

Respectfully Submitted,

  
Franklin D. Fitzpatrick  
Chair

on behalf of the Middle Creek National Battlefield Foundation, Inc.



### CSX Transportation, Inc

Middle Creek Subdivision, Floyd County, Kentucky

 line proposed for abandonment